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Michael N Hay	7590 10/09/2007	EXAMINER		
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Keswick, VA 2			ART UNIT	PAPER NUMBER
			3621	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary		Application	Application No. Applicant(s)					
		10/563,187		DE JANASZ, CHRISTOPHER G.				
		Examiner		Art Unit				
		NANCY T. L	.E	3621				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply								
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).								
Status								
1)⊠	Responsive to communication(s) filed on <u>05 Ju</u>	<u>une 2007</u> .						
/ ===	This action is FINAL. 2b) This action is non-final.							
3)	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is							
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.								
Disposition of Claims								
5)□ 6)⊠ 7)□	Claim(s) <u>1-33</u> is/are pending in the application. 4a) Of the above claim(s) is/are withdraw Claim(s) is/are allowed. Claim(s) <u>1-33</u> is/are rejected. Claim(s) is/are objected to. Claim(s) are subject to restriction and/or	wn from cons						
Applicati	on Papers							
• —	The specification is objected to by the Examine		_					
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.								
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).								
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.								
Priority (ınder 35 U.S.C. § 119							
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 								
Attachmen			4) Interview Summary	(PTO 413)				
2) Notice 3) Infor	ce of References Cited (PTO-892) ce of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO/SB/08) er No(s)/Mail Date		Paper No(s)/Mail Da 5) Notice of Informal P. 6) Other:	ate				

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DETAILED ACTION

Acknowledgements

Applicant's amendment filed on 05 June 2007 is acknowledged.

This paper is assigned Paper No. 20070928 by the Examiner.

Status of Claims

Claims 1-33 have been examined.

Response to Arguments

Applicant's arguments with respect to claims 1-33 have been considered but are moot in view of the new ground(s) of rejection as follows.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6, 9-33 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,819,234 to Slavin et al. in view of US Patent No. 6,856,820 B1 to Kolls et al., further in view of US 6,339,384 B1 to Valdes-Rodriguez, and further in view of U.S. Patent No. 7,044,622 B2 to Marshall.

As per **claim 1**, Slavin et al. disclose a method comprising:

receiving a signal from a <...> non-telephonic wireless transmitter fixedly attached to a vehicle,
 the signal comprising an <...> unique identifier (i.e., transponder tag ID), the unique identifier

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not comprising a financial account number or a user-provided PIN, <...>, the signal requesting approval of a proposed transaction, fulfillment of the proposed transaction not involving the transmitter (col. 1 lines 32-40, col. 9 lines 49-51);

- transmitting the <...> unique identifier to a central processor adapted to approve the proposed transaction if at least the unique identifier is associated with a valid financial account (col. 1 lines 32-40, col. 9 lines 49-56. Furthermore, the USPTO interprets claim limitations that contain "if, may, might, can, when and could" statement(s), as optional language. As matter of linguistic precision, optional claim elements do not narrow claim limitations, since they can always be omitted (In re Johnston, 77 USPQ2d 1788 (CA FC 2006)). Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.); and
- receiving an approval from the central processor to complete the proposed transaction, the
 proposed transaction involving the valid financial account associated with the unique identifier
 (col. 9 lines 49-63).

Slavin et al. do not expressly disclose such a method comprising:

- the signal is from a 'vehicle-powered' non-telephonic wireless transmitter/transponder,
- the unique identifier in the transmitted signal is 'encrypted',
- the signal transmitted responsive to "a predetermined input from a user {claim 1},
 wherein such an input comprises a predetermined number of headlight high beam
 switch activations within a predetermined time interval" {claim 6}.

Kolls et al., however, suggests a signal transmitted from a 'vehicle-powered' non-telephonic wireless transmitter/transponder (i.e., ... from 'an in-vehicle device 200') -- col. 6 line 55 - col. 7 line 3, col. 7 lines 22-37, Fig. 1E) to utilize a secure, uninterrupted, long-lasting power connection to the vehicle's battery.

Therefore, it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a non-telephonic wireless transmitter/transponder

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as disclosed by Slavin et al. to include the aspect of a signal is from a 'vehicle-powered' non-telephonic wireless transmitter/transponder, as suggested by Kolls et al. to utilize a secure, uninterrupted, long-lasting power connection to the vehicle's battery.

Neither Slavin et al. nor Kolls et al. nor the combinations thereof suggests the unique identifier in the transmitted signal is 'encrypted'.

Valdes-Rodriguez, however, suggests a unique identifier (i.e., code signals) in the transmitted signal is 'encrypted' (col. 4 lines 23-25) to obscure information to make it unreadable without special knowledge or authorization, in other words, to ensure secrecy during transmission.

Therefore, it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a 'vehicle-powered' non-telephonic wireless transmitter/transponder as suggested by Slavin et al. in view of Kolls et al. to include the aspect of an 'encrypted' unique identifier in the transmitted signal as taught by Valdes-Rodriguez to ensure secrecy of information or data during transmission.

None of the Slavin et al., Kolls et al., and Valdes-Rodriguez references nor the combinations thereof suggests the signal transmitted responsive to "a predetermined input from a user {claim 1}, wherein such an input comprises a predetermined number of headlight high beam switch activations within a predetermined time interval" {claim 6}.

Marshall, however, suggests the signal transmitted responsive to "a predetermined input from a user {claim 1}, wherein such an input comprises a predetermined number of headlight high beam switch activations within a predetermined time interval" {claim 6} (col. 3 lines 43-63) to activate a transmitter and get it ready to transmit signal/data to a receiver.

Therefore, it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a 'vehicle-powered' non-telephonic wireless transmitter/transponder as suggested by Slavin et al. in view of Kolls et al. further in view of Valdes-Rodriguez to include the aspect of the signal transmitted responsive to "a predetermined input from a user {claim 1}, wherein such an input comprises a predetermined number of headlight high beam

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switch activations within a predetermined time interval" {claim 6} as suggested by Marshall to activate a transmitter and get it ready to transmit signal/data to a receiver.

As per <u>claim 2</u>, Slavin v. Kolls v. Valdes-Rodriguez v. Marshall disclose the method of claim 1, further comprising transmitting a request for approval of the proposed transaction (Slavin et al., col. 9 lines 49-51).

As per <u>claims 3-5</u>, Slavin v. Kolls v. Valdes-Rodriguez v. Marshall disclose the method of claim 1, further comprising receiving an acknowledgment of fulfillment of the proposed transaction (to the transmitter/user) (Slavin et al., col. 9 lines 59-63).

As per <u>claim 9</u>, Slavin v. Kolls v. Valdes-Rodriguez v. Marshall disclose the method of claim 1, further comprising polling for the signal (Valdes-Rodriguez, col. 4 lines 27-30).

As per <u>claim 10</u>, Slavin v. Kolls v. Valdes-Rodriguez v. Marshall disclose the method of claim 1, wherein the proposed transaction comprises provision of access to a physical location (i.e., access to parking garages -- Slavin et al., col. 10 lines 35-39).

As per <u>claim 11</u>, Slavin v. Kolls v. Valdes-Rodriguez v. Marshall disclose the method of claim 1, wherein the proposed transaction comprises provision of a product (i.e., collecting various fees such as parking – Slavin et al., col. 10 lines 35-39).

As per <u>claim 12</u>, Slavin v. Kolls v. Valdes-Rodriguez v. Marshall disclose the method of claim 1, wherein the proposed transaction comprises provision of a service (i.e., car wash – Slavin et al., col. 10 lines 35-39).

As per <u>claim 13</u>, Slavin v. Kolls v. Valdes-Rodriguez v. Marshall disclose the method of claim 1, wherein encryption of the unique identifier utilizes a code-hopping technique (Valdes-Rodriguez, col. 4 lines 23-40).

As per <u>claim 14</u>, Slavin et al. v. Kolls et al. v. Valdes-Rodriguez v. Marshall disclose a system comprising:

an input processor adapted to receive a signal from a vehicle-powered non-telephonic wireless
 transmitter fixedly attached to a vehicle, the signal comprising an encrypted unique identifier,
 the encrypted unique identifier not comprising a financial account number or a user-provided

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PIN, the signal transmitted responsive to a predetermined input from a user, the signal requesting approval of a proposed transaction, fulfillment of the proposed transaction not involving the transmitter (i.e., a built-in/'inherently included' *central processing unit* {*CPU*}, or sometimes simply *processor* in the toll plaza computer(s) 32 of the electronic toll collection system – Slavin et al., col. 9 line 49. The CPUs/processors, which are old and well-known in the art, interpret *instructions* and processes *data* contained in computer programs, provide the fundamental digital computer trait of *programmability*, and are one of the necessary components found in computers of any era, along with *primary storage* and *input/output* facilities. Also please see claim 1 for further citation);

- an output processor adapted to transmit the encrypted unique identifier to a central processor adapted to approve the proposed transaction *if* at least the unique identifier is associated with a valid financial account (i.e., a built-in/inherently included' *central processing unit* {*CPU*}, or sometimes simply *processor* in the toll plaza computer(s) 32 of the electronic toll collection system Slavin et al., col. 9 line 49. The CPUs/processors, which are old and well-known in the art, interpret *instructions* and processes *data* contained in computer programs, provide the fundamental digital computer trait of *programmability*, and are one of the necessary components found in computers of any era, along with *primary storage* and *input/output* facilities. Also please see claim 1 for further citation. Furthermore, the USPTO interprets claim limitations that contain "if, may, might, can, when and could" statement(s), as optional language. As matter of linguistic precision, optional claim elements *do not narrow claim limitations*, since *they can always be omitted* (In re Johnston, 77 USPQ2d 1788 (CA FC 2006)). Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does *not* limit the scope of a claim or claim limitation.); and
- an approval processor adapted to receive an approval from the central processor to complete the
 proposed transaction, the proposed transaction involving the valid financial account

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associated with the unique identifier (i.e., a built-in/inherently included' central processing unit {CPU}, or sometimes simply processor in the toll plaza computer(s) 32 of the electronic toll collection system – Slavin et al., col. 9 line 49. The CPUs/processors, which are old and well-known in the art, interpret instructions and processes data contained in computer programs, provide the fundamental digital computer trait of programmability, and are one of the necessary components found in computers of any era, along with primary storage and input/output facilities. Also please see claim 1 for further citation).

As per <u>claim 15</u>, Slavin et al. v. Kolls et al. v. Valdes-Rodriguez v. Marshall disclose a method comprising:

- at a central processor (i.e., a built-in/'inherently included' central processing unit {CPU}, or sometimes simply processor in a remote, centrally located computer of the E-ZPass electronic toll collection system 40 Slavin et al., col. 1 lines 27-31, col. 5 lines 55-60), receiving information originating from a vehicle-powered non-telephonic wireless transmitter fixedly attached to a vehicle, the information comprising an encrypted unique identifier, the encrypted unique identifier not comprising a financial account number or a user-provided PIN, the information provided from the wireless transmitter responsive to a predetermined input from a user, the information requesting approval of a proposed transaction, fulfillment of the proposed transaction not involving the wireless transmitter (also, see claim 1 for further citation); and
- transmitting an approval to complete the proposed transaction, the proposed transaction involving the valid financial account associated with the unique identifier (see claim 1 for citation. Furthermore, the USPTO interprets claim limitations that contain "if, may, might, can, when and could" statement(s), as optional language. As matter of linguistic precision, optional claim elements do not narrow claim limitations, since they can always be omitted (In re Johnston, 77 USPQ2d 1788 (CA FC 2006)). Language that suggests or makes optional but

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does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.).

As per <u>claims 16 and 18</u>, Slavin et al. v. Kolls et al. v. Valdes-Rodriguez v. Marshall disclose the method of claim 15, further comprising 'obtaining an approval of'/approving the proposed transaction (Slavin et al., col. 9 lines 59-63).

As per <u>claim 17</u>, Slavin et al. v. Kolls et al. v. Valdes-Rodriguez v. Marshall disclose the method of claim 15, further comprising storing an approval of the proposed transaction (i.e., a toll is recorded/stored – Slavin et al., col. 9 lines 50, 51).

As per <u>claims 19 and 20</u>, Slavin et al. v. Kolls et al. v. Valdes-Rodriguez v. Marshall disclose the method of claim 15, further comprising obtaining/transmitting a rejection of the proposed transaction {if the proposed transaction exceeds a predetermined amount for a predetermined counter-party} (col. 10 lines 5-13).

As per claims 21-24, Slavin et al. v. Kolls et al. v. Valdes-Rodriguez v. Marshall disclose the method of claim 15, further comprising transmitting a rejection of the proposed transaction *if* the proposed transaction exceeds a predetermined amount (claim 21), *if* a total amount associated with one or more transactions exceeds a predetermined amount (claim 22), *if* the proposed transaction exceeds a predetermined amount for a predetermined counter-party (claim 23), *if* the proposed transaction exceeds a predetermined amount for a predetermined time interval for a predetermined counter-party (claim 24) (The USPTO interprets claim limitations that contain "if, may, might, can, when and could" statement(s), as optional language. As matter of linguistic precision, optional claim elements *do not narrow claim limitations*, since *they can always be omitted* (In re Johnston, 77 USPQ2d 1788 (CA FC 2006)). Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does *not* limit the scope of a claim or claim limitation. Thus, these limitations are considered non-existent.).

As per <u>claims 25 and 26</u>, Slavin et al. v. Kolls et al. v. Valdes-Rodriguez v. Marshall disclose the method of claim 15, further comprising transmitting a rejection of the proposed transaction *if* a counter-

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party to the proposed transaction is a predetermined restricted counter-party (The Office interprets a restricted counter-party and restricted subject matter are motorist(s) {i.e., restricted counter-party} who has/have negative balance, i.e., who has no money left and further owes money, in his/her account against which the toll is charged/debited {i.e., restricted subject matter} – Slavin et al., col. 10 lines 5-13. Furthermore, the USPTO interprets claim limitations that contain "if, may, might, can, when and could" statement(s), as optional language. As matter of linguistic precision, optional claim elements *do not narrow claim limitations*, since *they can always be omitted* (In re Johnston, 77 USPQ2d 1788 (CA FC 2006)). Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does *not* limit the scope of a claim or claim limitation.)

As per <u>claims 27 and 28</u>, Slavin et al. v. Kolls et al. v. Valdes-Rodriguez v. Marshall disclose the method of claim 15, further comprising transmitting a rejection of the proposed transaction *if* a time of the proposed transaction is a predetermined restricted time/date (Slavin et al., col. 10 lines 31-33. The Office interprets the toll system implicitly rejects the proposed transactions, i.e., toll charges generated from the same transponder within a given time period at geographically remote toll plazas. Furthermore, the USPTO interprets claim limitations that contain "if, may, might, can, when and could" statement(s), as optional language. As matter of linguistic precision, optional claim elements *do not narrow claim limitations*, since *they can always be omitted* (In re Johnston, 77 USPQ2d 1788 (CA FC 2006)).

Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does *not* limit the scope of a claim or claim limitation.).

As per <u>claim 29</u>, Slavin et al. v. Kolls et al. v. Valdes-Rodriguez v. Marshall disclose the method of claim 15, further comprising decrypting the encrypted unique identifier (col. 4 lines 27-32).

As per <u>claim 30</u>, Slavin et al. v. Kolls et al. v. Valdes-Rodriguez v. Marshall disclose the method of claim 15, further comprising causing a comparison of the unique identifier with a list of unique identifiers associated with valid financial accounts (i.e., The comparison/validation process includes testing whether the tag number/ID is valid, i.e., comparing/validating the transmitted tag number/ID with {a

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list of unique tag numbers/IDs}, and thereafter the corresponding financial account is accessed/located – Slavin et al., col. 9 lines 55-56, 50-51, col. 5 lines 49-52).

As per <u>claim 31</u>, Slavin et al. v. Kolls et al. v. Valdes-Rodriguez v. Marshall disclose the method of claim 15, transmitting instructions requesting a transfer of funds associated with the valid financial account responsive to the approval (col. 5 lines 53-54).

As per <u>claim 32</u>, Slavin et al. v. Kolls et al. v. Valdes-Rodriguez v. Marshall disclose the method of claim 15, further comprising storing a rejection of the proposed transaction (i.e., Moreover, the video camera 37 ... can be used to store images of the plate number and other vehicle data ... -- Slavin et al., col. 10 lines 8-11).

As per <u>claim 33</u>, Slavin et al. v. Kolls et al. v. Valdes-Rodriguez v. Marshall disclose the method of claim 15, further comprising reporting a rejection of the proposed transaction (i.e., ... and a violation enforcement procedure may be initiated/reported ... -- Slavin et al., col. 10 lines 8-13).

Claims 7 and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,819,234 to Slavin et al. in view of US Patent No. 6,856,820 B1 to Kolls et al., in view of US 6,339,384 B1 to Valdes-Rodriguez, in view of U.S. Patent No. 7,044,622 B2 to Marshall and further in view of U.S. Patent No. 5,101,200 to Swett.

As per <u>claims 7 and 8</u>, Slavin et al. v. Kolls et al. v. Valdes-Rodriguez v. Marshall disclose a method/system for transmitting a signal from a vehicle-powered non-telephonic wireless transmitter/transponder and requesting approval of a proposed transaction (see claim 1 for details).

None of the Slavin et al., Kolls et al., Valdes-Rodriguez and Marshall references nor the combinations thereof suggests the method of claim 1, further comprising requesting and receiving, respectively, a PIN from the user.

Swett, however, suggests a method for transmitting a signal from a vehicle-powered non-telephonic wireless transmitter fixedly attached to a vehicle, and requesting approval of a proposed transaction further comprising requesting and receiving (i.e., inputting), respectively, a PIN from the user (col. 13 lines 55-56, col. 15 lines 58-59) to confirm the user's identity to a system from which the user requesting approval of the proposed transaction.

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Therefore, it would have been obvious to an ordinary skill in the art at the time the invention was made to modify a method for transmitting a signal from a vehicle-powered non-telephonic wireless transmitter/transponder as suggested by Slavin et al. in view of Kolls et al. in view of Valdes-Rodriguez and further in view of Marshall to include the aspect of "requesting and receiving (i.e., inputting), respectively, a PIN from the user" as suggested by Swett to confirm the user's identity to a system from which the user requesting approval of the proposed transaction.

Conclusion

Examiner has cited particular columns and line numbers and/or paragraph and/or page numbers in the prior arts of record as applied to the claims above in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to fully consider the references in its **entirety** as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the examiner should be directed to NANCY LOAN T. LE

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whose telephone number is **(571) 272-7066**. The examiner can normally be reached on Monday - Friday, 9am - 6:00pm Eastern Standard Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANDREW J. FISCHER can be reached on (571) 272-6779.

For <u>official/regular communication</u>, the fax number for the organization where this application or proceeding is assigned is *(571) 273-8300*.

For informal/draft communication, the fax number is (571) 273-7066 (Rightfax).

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Information Retrieval (PAIR) system. Status information for published applications may be obtained from
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(EBC) at 866-217-9197 (toll-free).

Nancy Le

Patent Examiner

nanch

28 September 2007

PRIMARY EXAMINER